

Remarks

This is responsive to the Office Action mailed on July 19, 2004. Reconsideration of the instant application in view thereof is respectfully requested.

Claims 1-9 are pending. Claims 1-9 are rejected. Claims 1, 3 and 6 have been amended. Claim 2 has been canceled. Claims 10-12 have been added. Support for these new claims may be found on pages 4 and 6 of the specification.

Claim Rejections under 35 U.S.C. §112, first paragraph

Claims 1-9 are rejected under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for a composition containing an alkaline agent selected from an amine or an alkaline earth base as set forth on page 4 of the specification, does not reasonably provide enablement for the recitation of an "alkaline agent" generically, which includes substances neither contemplated nor disclosed by applicants. Applicants respectfully traverse this rejection.

The Office Action states that the specification provides enablement for a composition containing an alkaline agent selected from an amine or alkaline earth base, but not for an alkaline agent generically. The specific examples of alkaline agents disclosed in the specification is not determinative because, in fact, Applicants are not required to present any examples at all; the C.C.P.A. has stated that the claims may be supported "either by the use of illustrative examples or by broad terminology." *In re Marzocchi*, 439 F.2d 220, 223 (C.C.P.A. 1971). The broad terminology in this Application includes the term, "alkaline agent." Therefore, Applicants respectfully submit that the teachings of the Application provide the required support for the claims.

Additionally, the list of specified alkaline agents in amended claim 10 provides further assistance to enable a person of ordinary skill in the art to define and/or make the claimed compositions. Applicants assert that the list of alkaline agents in amended claim 10 provides an additional reason why amended claim 10 meets the requirements of 35 USC § 112.

Claims 1-9 are rejected under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for a composition containing a hydration inhibitor selected from a polymer or copolymer of polycarboxylic acid as set forth on page 4 of the specification, does not reasonably provide enablement for the recitation of a "hydration inhibitor" generically which includes substances neither contemplated nor disclosed by Applicants. Applicants also respectfully traverse this rejection.

The Office Action states that the specification provides enablement for a composition containing a hydration inhibitor selected from a polymer or copolymer of polycarboxylic acid, but not for a hydration inhibitor generically. The specific examples of hydration inhibitors disclosed in the specification is not determinative because, in fact, Applicants are not required to present any examples at all; the C.C.P.A. has stated that the claims may be supported "either by the use of illustrative examples or by broad terminology." *In re Marzocchi*, 439 F.2d 220, 223 (C.C.P.A. 1971). The broad terminology in this Application includes the term, "hydration inhibitor." Thus, Applicants respectfully submit that the teachings of the Application provide the required support for the claims.

Additionally, the list of specified hydration inhibitors in amended claim 11 provides further assistance to enable a person of ordinary skill in the art to define and/or make the claimed compositions. Applicants assert that the list of hydration inhibitors in amended claim 11 provides an additional reason why amended claim 11 meets the requirements of 35 USC § 112.

Claims 1-9 are rejected under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for a composition containing an activator selected from metal salt, which can provide acidic cations as set forth on page 6 of the specification, does not reasonably provide enablement for the recitation of an "activator" generically which includes substances neither contemplated nor disclosed by Applicants. Applicants also respectfully traverse this rejection.

The Office Action states that the specification provides enablement for a composition containing an activator selected from metallic salts, but not for an activator generically. The specific examples of activators disclosed in the specification is not determinative because, in fact, Applicants are not required to present any examples at all; the C.C.P.A. has stated that the claims may be supported "either by the use of illustrative examples or by broad terminology." *In re Marzocchi*, 439 F.2d 220, 223 (C.C.P.A. 1971). The broad terminology in this Application includes the term, "activator." Therefore, Applicants respectfully submit that the teachings of the Application provide the required support for the claims.

Additionally, the specified activators in amended claim 12 provides further assistance to enable a person of ordinary skill in the art to define and/or make the claimed compositions. Applicants assert that the activators in amended claim 12 provides an additional reason why amended claim 12 meets the requirements of 35 USC § 112.

Claim Rejection under 35 U.S.C. §112, second paragraph

Claims 4-5 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In view of the above amendments, Applicants request that this rejection be withdrawn.

Rejections under 35 U.S.C. §103(a)

Claims 1-9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Patel (U.S. Patent No. 5,779,786). Applicants respectfully traverse this rejection because Patel does not teach or disclose mixing two components dispersed in an aqueous medium.

Patel discloses a composition having gypsum powder (calcium sulfate hemihydrate), water and a set-retarding agent. See, Patel, claim 1 and Abstract. The gypsum powder is mixed with the water and set-retarding agent to form the compound.

In contrast, the composition and method of the present invention as claimed in amended claims 1 and 6 comprise an aqueous Component A to be mixed with an aqueous Component B to form a composition. Both components are dispersed in an aqueous medium before mixing.

Claims 1-9 are rejected under 35 U.S.C. §103(a) as being unpatentable over GB 1,432,157 ("the '157 patent"). Applicants respectfully traverse this rejection because the '157 patent also does not teach or disclose mixing two components dispersed in an aqueous medium.

The '157 patent discloses an aqueous slurry comprising calcined gypsum powder, polyvinyl alcohol and an aqueous solution of a metal compound. See, the '157 patent, claim 1 and page 1, lines 49-55. The gypsum powder is mixed with the polyvinyl alcohol and aqueous solution to form the slurry.

Similar to Patel, the '157 patent does not disclose mixing an aqueous Component A with an aqueous Component B to form a composition. In contrast to the present invention, the components of the '157 patent are not dispersed in an aqueous medium before mixing.

Conclusion

In view of the above remarks, Applicants believe that the pending claims are in condition for allowance, and early and favorable action is earnestly solicited.

This Paper is believed to be timely filed and that no additional fees are due. However, if any additional fee is deemed required for consideration of this Response, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 18-1850.

Respectfully submitted,



Kim R. Jessum
Attorney for Applicant
Registration No. 43,694
Telephone No. 215-592-3689

Rohm and Haas Company
100 Independence Mall West
Philadelphia, PA 19106-2399

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